

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DERRICK LEE SMITH,

Plaintiff,

v.

M. BURK, et al.,

Defendants.

Hon. Hala Y. Jarbou

Case No. 1:19-cv-1018

ORDER

This matter is before the Court on Plaintiff's Motion to Proceed *In Forma Pauperis*. (ECF No. 94). On October 19, 2021, the Magistrate Judge denied Plaintiff's motion for entry of default judgment. (ECF No. 63). On November 1, 2021, Plaintiff filed a Notice to appeal this decision to the Sixth Circuit. (ECF No. 77). Plaintiff now moves to pursue this appeal as a pauper. For the reasons discussed herein, Plaintiff's motion will be denied.

As this Court recently observed, Plaintiff's repeated motions for default judgment are frivolous and without merit. (ECF No. 92). Pursuant to Rule 24(a) of the Federal Rules of Appellate Procedure, Plaintiff may proceed as a pauper on appeal unless this Court certifies that the appeal is not taken in good faith. Under federal law, "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). For the reasons articulated in the Court's November 17, 2021, Order, the Court finds that Plaintiff's appeal is not taken in good faith. Accordingly,

IT IS ORDERED that Plaintiff is **DENIED** leave to proceed in forma pauperis on appeal. If Plaintiff wishes to proceed with his appeal, he must pay the \$505.00 appellate fee to the Clerk of this

Court within 28 days of this order. *See* 28 U.S.C. §§ 1913, 1917; 6 Cir. I.O.P. 3; Court of Appeals Miscellaneous Fee Schedule § 1 (Dec. 1, 2020). Alternatively, Plaintiff may file a motion for leave to proceed in forma pauperis in the Court of Appeals pursuant to the requirement set forth in FED. R. APP. P. 24(a)(5).

IT IS SO ORDERED.

Dated: November 22, 2021

/s/ Hala Y. Jarbou
HALA Y. JARBOU
UNITED STATES DISTRICT JUDGE